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1942. **File No.** B. Cotton Control/42

Legal **DEPARTMENT**

B **BRANCH**

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**Subject:—**

P:24/E

A Bill to amend the Bombay Cotton Control Act, 1935

Bom. XXX of 1942.

**File No.** C/B. Cotton Control/42

Std. Sectt. Slip 24 B e.

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R.I. No. 1537-L, d/29-10

U.O. from R.C. No. 6975/33, dated the 28 th October 1938, regarding draft Bil to amend the Bombay Cottor Control Act, 1935.

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Submitted with pp-

Sd/- S.V.D
dt/-29/10

S.S.

The Bombay Cotton Control Act, 1935(Bom. XXXV of 1935) prohibits the cultivation only of one kind of cotton, namely, Goghar cotton and the mixing of such cotton with other cotton and prohibits and restricts the possession, use or trade in Goghar cotton. The experi gained in the working of this Act has shown that such a measure of prohibition is useful and ensures the growing of good cotton. It is now proposed to enact a wider measure designed to serve the interests of cot on trade and the growers of cotton in the whole of the Province to maintain the quality and reputation of its cot'on. It is proposed to take power to Government to prohibit the cultivation in any area of such varieties of cotton as Govt, may specify from time to time and to ~~prohibit the cultivation in any area of such varieties of cotton as Govt. may specify from time to time and to~~ prohibit the mixing of such prohibited cot on wi'h any other cotton and the possession or use of, or trade in such prohibited co'ton. The object is to make it possi le for Government to rohi it the growing of all cotton in

~~xxxpxxifixdxxrxx~~

a specified area except ~~xxxxxxxx~~one selected variety and thus to ensure the full advantages of growing the best ~~x~~ cotton to all concerned.

2. The R.L.A. is requested to advise under Instruction 24. It will be necessary to undertake legislation to abhieve the object in view.

Sd/-
15/11

S.A.S. As at 'A'

~~X~~Sd/- S.B.P.
dt.17/11

B.S.
Sd/-
dt/-14/11

R.L.A. Id/- J.R.P
dt/-25/11

U.R. to R.D. No. 8731 dated the 30th Nov. 1938.

V.VK.
3-5-1956

Office of the R.L.A.

The Bill does not require any previous sanction of the Governor under section 93 regime. The provision of clause 8(3) of the Bill are repugnant to the provisions of the Indian Evidence Act, 1872, which is an existing Indian Law relating to entry 5 in the Concurrent Legislative List and the Bill will, therefore, have to be reserved for the consideration of the Governor General with reference to section 107(2) of the Government of India Act.

2. A few changes from the drafting point of view are made in the Bill. Clause 15 of the Bill repeals the Bombay Cotton Control Act, 1935. It appears necessary to insert a transitory provisions in the Bill priviling for keeping in force the notifications issued under sec. 3 of the Bombay Cotton Control Act until similar notifications are issued under section 3(2) of the proposed new Act. It is also necessary to save all proceedings for contravention of the provisions of the old Act. The necessary provisions are therefore added to clause 15 of the Bill. Rules under section 14 of the new Act will have to be made as soon as possible after the Act comes into force, The R.D. should take the necessary steps for this purpose.

3. The draft statement at pp. 217 .218 ante is legally in order.

Remembrancer of Legal Affairs.

U.R. to R.D. No.5578 dated the 8th July 1942.

V.VK.
3-5-56.
4C.

Legal Department.

Sub-clause (5) of clause 14 of the draft ...ll at p. 91 ante was omitted by R.L.A. as it not possible to give effect to such a provision during section 93 regime . Moreover such a provisions has not been inserted in recent Bombay Acts (cf. section 27 of the Bombay Tenancy Act, 1939(Bom.XXIX of 1939) or section 83 of the Bombay Agricultural Debtors Relief Act, 1939(Bom. XXVIII of 1939) "The object of this provision can only be to secure that the notification, order or rule is brought expressly to the notice of the Legislature. Where the delegated power(of subordinate Legislative e.g. rule-making ) is exercisable by notification in the official Gazette, and particularly where a rule-making power is subject to the condition of previous publication, the provision has little to recommend it." (See p. 206 of the annotated General Clauses Act, 1999).

Sd/- P.N.M.
dt/-24/8

Secretary to Government.

U.R. to R.D. No. 6918 , dated 24th August 1942.

V.VK.
3-5-56.

4C.

No.10439
Legal Department,
Bombay Castle , 31st December 1942.

From
P.N.Moos Esquire ,Bar-at-Law ,I.C.S.
Secretary to the Government of Bombay,

To
The Secretary to the Governor of Bombay.

Subject:- A Bill to provide for regulation and prohibition of the cultivation of any Variety of cotton of the Mixin of the prohibited variety of cotton with other cotton and of the possession or use of, or trade in, the prohibited varity of cotton in any part of theProvince of Bombay.

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Sir,

With reference to your Memorandum 201(37) dated the 21st October 1942 addressed to the Revenue Department,on the above subject . I am directed to forward herewith a copy of the Bill to provide for regulation and prohibition of the cultivation of any variety of cotton, of the mixing of the prohibited varity of cotton with other cotton and of the possession of use of ,or trade in , the prohibited variety of cotton in any part of the Province of Bombay, prepared by His Excellency the Governor under paragraph (2) of the Proclamation dated the 4th Novem er 1939 issued by him under section 93 of the Government of Indian Act, 1935.

2. None of the provisions of the Bill affects any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935 or falls within the purview of clause (a),(b),(c),or (d) of paragraph XVII of the Instrument of Instructions to the Governor of Bombay.

3. The subject matter of the Bill falls under entries 20,27,and 37 in the Provincial Legislative List in the Seventh Schedule to the Government of India Act,1935. The Bill also relates to entry 5 in the Concurrent Legislative List in the said Seventh Schedule . The Provisions of clause 8(3) of the Bill are repugnant to the provisions of the Indian Evidence Act, 1872 which is an

existing Indian law relating to entry 5 in the Concurrent Legislative List. The Bill therefore, will have to be reserved for consideration of the Governor General with reference to paragraph(2) of the Proclamation and section 107(2) of theGovernment of Indian Act, 1935.

4. I also froward herewith six spare copies of the Bill out of which give copies are for transmission to the Secretary to the Governrl (Public).

Your obdient servant ,

Id/-P. N.M.
dt/-31/12

Secretary to Government.
Legal Department.

Through

Secretary to Government ,
Revenue Department.

V.VK.
4-5-56.

Legal Department.

* The Bombay Cotton Control Bill ,1942, has been forwarded xx separately through the Revenue Department to the Secretary to the Governor for obtaining the assent of Governor General to the Bill.

2. A draft notification under section 92(1) of the Government of India Act, 1935 , for applying the proposed Act to the partially excluded areas in this Province is sent herewith. It should be published by the Revenue Department in the Bombay Government Gazette on or after the date on which the Act will be published in the Bombay Government Gazette.

Id/-S.L.C.
dt/-29/12

for Secretary to Government .

U.R. to R.D. , No. 10440 , Dated the 31st December 1942.

V.VK.
4-5-55.

40.

NOTIFICATION.

Revenue Department.
Bombay Castle , 1942.

No. :- In exercise of the powers co ferred by conferred by section (1) of section 93 of the Government of India Act, 1935, the Governmanor of Bombay is hereby pleased to direct that the Bombay Cotton Control Act, 1942 (Bom. of 1942) shall apply to the partially excluded areas in the Province of Bombay.

By order of the Governor of Bombay,

Secretary to Government.

V.VK.
4-5-50.

40.

No. 201(37)
Office of the Governor's Secretary,
Government House ,
Ganeshkhind , 27th February 1943,

From

J.B. Irwin,Esquire ,CIE. DSO.MC.ICS.
Secretary to the Governor of Bombay,

To

The Secretary to Government,
Legal Department ,Bombay.

Subject: The Bombay Cotton Control Bill, 1942.

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Sir ,

With reference to your No. 10439, dated 31 st December 1942, on the above subject, I am directed to forward herewith the copy of the Bombay Cotton Control Bill 1942, with His Excellency the Governor -General's assent signified thereon.

Your obedient servant,

Sd/-

for Secretary to the Governor of Bombay.

V.VK.
4-5-50.

40.

ACts.

Publication of the Bombay Cotton Control Act, 1942.

GOVERNMENT OF BOMBAY.

Legal Department.
Resolution No. 1548

Bombay Castle , 2nd March 1943.

Letter to the Secretary to the Governor, No. 10439, dated the 31st December 1942.

Letter from the Secretary to the Governor ,No. 201(37) dated the 27th February 1943:

"With reference to your letter No.10439, dated 31st December 1942, on the above subject, I am directed to forward herewith the copy of the Bombay Cotton Control Bill, 1942, with His Excellency the Governor-General's assent signified thereon."

RESOLUTION. - The Law should be published as Bombay Act No. XXX of 1942, in the Bombay Government Gazette dated the 2nd March 1943.

2. The Act should be translated into Marathi, Gujarâti , Kanada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Revenue Department.

By order of the Governor of Bombay

Sd/- S.L.Chaudhary.

For { P.N.MODS, Secretary to Government.

To

The Manager , Government Central Press, Bombay (with a copy of the Act and with a request that 15 gazette copies of the Act may be forwarded to the Legal Department.

The Revenue Department.
The Oriental Translator to Government.
The Secretary to the Bombay Legislative Council.
The Secretary to the Bombay Legislative Assembly.
} with copy of the Act.

* With five Extra copies.

V.VK.
4-5-56.
4C.

Registered No. B-1

# The Bombay Government Gazette

PUBLISHED BY AUTHORITY

TUESDAY, 2ND MARCH 1943.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

# PART IV

**(1) Acts of the Local Legislature of the Bombay Province and (2) Acts of the Indian Legislature assented to by the Governor General.**

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| BOMBAY ACT No. XXX OF 1942—An Act to provide for regulation and prohibition of the cultivation of any variety of cotton, of the mixing of the prohibited variety of cotton with other cotton and of the possession or use of, or trade in, the prohibited variety of cotton in any part of the Province of Bombay ... ... ... ... | 66—73 |

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by the Governor General on the 19th February 1943 is hereby published for general information.

P. N. MOOS,
Secretary to the Government of Bombay,
Legal Department.

## BOMBAY ACT No. XXX OF 1942.

*(First published, after having received the assent of the Governor General in the "Bombay Government Gazette" on the 2nd March 1943.)*

An Act to provide for regulation and prohibition of the cultivation of any variety of cotton, of the mixing of the prohibited variety of cotton with other cotton and of the possession or use of, or trade in, the prohibited variety of cotton in any part of the Province of Bombay.

WHEREAS it is expedient in the best interests of the growers of cotton in certain areas in the Province of Bombay, the cotton trade and the

economic prosperity of the said Province to maintain the quality and reputation of the cotton grown in those areas, and for that purpose in such areas, to fix the variety of cotton to be grown, to prohibit the cultivation of any variety of cotton, to prohibit the mixing of the prohibited variety of cotton with any other cotton and to prohibit or restrict the possession or use of, or trade in, the prohibited variety of cotton;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

Short title and extent.

**1.** (*1*) This Act may be called the Bombay Cotton Control Act, 1942.

(*2*) It extends to the whole of the Province of Bombay.

Definitions.

**2.** In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "controlled area" means an area specified in a notification under section 3;

(*b*) "cotton" includes cotton plant, ginned and unginned cotton, cotton waste and cotton seed;

(*c*) "Director of Agriculture" means the officer appointed for the time being to be the Director of Agriculture;

(*d*) "prohbited variety of cotton" for any area means the variety of cotton the cultivation of which is prohibited in such area under sub-clause (*ii*) of clause (*a*) of sub-section (*2*) of section 3;

(*e*) "standard cotton" for any area means the variety of cotton the cultivation of which is permitted in such area under sub-clause (*i*) of clause (*a*) of sub-section (*2*) of section 3.

Power to fix in any area variety of cotton which may be cultivated etc.

3. (*1*) (*a*) The Provincial Government may, by notification in the Official Gazette, in respect of any local area specified in the notification, declare its intention of—

(*i*) fixing the variety of cotton the cultivation of which shall be permitted in such area,

(*ii*) prohibiting the cultivation of any other variety of cotton in such area,

(*iii*) prohibiting in such area the mixing of the variety of cotton specified in sub-clause (*ii*) with any standard cotton, and

(*iv*) prohibiting or restricting in such area the possession or use of, or trade in the variety of cotton specified in sub-clause (*ii*), whether or not mixed with any standard cotton.

(*b*) Every such notification shall also be published in the regional language of the area and in such manner as the Collector thinks fit at the office of the Mamlatdar or Mahalkari in such area and in every town and village, persons residing in which are, in the opinion of the Collector, likely to be affected by such notification.

(*c*) Every such notification shall state that any objection or suggestion which may be received by the Provincial Government within the period specified in the notification, which shall be not less than three months from the date of the notification, shall be considered by the Provincial Government.

(*2*) (*a*) After the expiry of the period specified in the notification issued under sub-section (*1*) and after considering such objections and suggestions as may be received by it within such period, the Provincial Government may, by notification in the Official Gazette, in respect of the local area specified in the notification issued under sub-section (*1*) or any part thereof—

(*i*) fix the variety of cotton the cultivation of which is permitted in such area,

(*ii*) prohibit the cultivation of any other variety of cotton in such area,

(*iii*) prohibit in such area the mixing of the variety of cotton specified in sub-clause (*ii*) with any standard cotton, and.

(*iv*) prohibit or restrict in such area the possession or use of, or trade in the variety of cotton specified in sub-clause (*ii*) whether or not mixed with any standard cotton.

(*b*) Every such notification shall also be published in the regional language of the area and in such manner as the Collector thinks fit at the office of the Mamlatdar or Mahalkari in such area and in every town and village, persons residing in which are, in the opinion of the Collector, likely to be affected by such notification.

Penalty.

**4.** Any person, who in any controlled area, knowingly and in contravention of the provisions of this Act or of any notification issued or rule made thereunder—

(*a*) cultivates any prohibited variety of cotton shall, on conviction, be punishable with fine which may extend to twenty rupees for the first offence and to fifty rupees for every subsequent offence,

(*b*) (*i*) mixes or causes to be mixed any prohibited variety of cotton with the standard cotton, or

(*ii*) possesses, uses or trades in, any prohibited variety of cotton, whether mixed with the standard cotton or not,

shall, on conviction, be punishable with fine which may extend to five hundred rupees for the first offence and to one thousand rupees for every subsequent offence.

Confiscation.

**5.** Whenever an offence under this Act has been committed, all cotton in respect of which an offence has been committed and every box, receptacle, package or covering in which such cotton is contained shall be liable to confiscation.

Procedure in confiscation.

**6.** (*1*) When in any case tried by a criminal court, the court decides that anything is liable to confiscation under section 5, it may, after hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim, order confiscation.

(*2*) When an offence under this Act has been committed and the offender is not known or cannot be found or when anything liable to confiscation under this Act and not in the possession of any

person cannot be satisfactorily accounted for, the officer authorised by the Provincial Government in this behalf may hold an inquiry and may order confiscation :

Provided that no such order shall be made before the expiration of one month from the date of seizing the thing liable to confiscation or without hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim.

Compounding.

7 (*1*) The officer authorised under sub-section (*2*) of section 6 may accept from any person who is reasonably suspected of having committed an offence under section 4, a sum of money as may be prescribed by rules made under section 14 by way of composition for such offence.

(*2*) On payment of such sum, such person, if in custody, shall be set at liberty and if proceedings in any criminal court have been instituted against such person in respect of such offence, the composition shall be deemed to amount to an acquittal and no further proceedings shall be taken against such person in respect of such offence.

(*3*) Notwithstanding anything contained in sub-section (*2*), it shall be lawful for the Court or the officer authorised under sub-section (*2*) of section 6 to order confiscation of anything liable to confiscation under section 5.

Power of entry and seizure.

8. (*1*) Any officer authorised in this behalf by the Provincial Government may between the hours of 6 a.m. and 6 p.m.—

(*a*) enter upon any land in a controlled area in which he knows or has reason to believe that any prohibited variety of cotton has been or is being cultivated in contravention of a notification under section 3, uproot or cause to be uprooted such cotton and seize the cotton so uprooted ; or

(*b*) enter upon or into any land, building, ship, vessel, vehicle or place in a controlled area in which he knows or has reason to believe that any prohibited variety of cotton, whether mixed with the standard cotton or not, is kept in contravention of a notification under section 3, and seize such cotton.

(*2*) Every officer seizing any cotton under this section shall forthwith—

(*a*) make a report of such seizure to the nearest Magistrate of the First or Second Class having jurisdiction to try the offence committed in respect of such cotton specifying in such report the particulars of such cotton and furnish a copy of such particulars to the occupier, or person in charge of the land, building, ship, vessel, vehicle or place on or in which such seizure was made, and

(*b*) subject to rules made under section 14, forward such cotton to the nearest officer authorised by the Provincial Government for examination and for report to the Director of Agriculture.

(*3*) The opinion of the officer authorised under sub-section (*2*) regarding such cotton recorded in any document signed by such officer shall be evidence as to the nature of such cotton in any inquiry, trial or proceeding under this Act.

Duty of owner, occupier and person in charge to give facilities for inspection by authorised officer.

**9.** (*1*) Every owner, occupier, or person, in charge, of any land, building, ship, vessel, vehicle or place shall give all reasonable facilities to the officer, authorised under sub-section (*1*) of section 8, to inspect such land, building, ship, vessel, vehicle or place.

(*2*) Any person who contravenes the provisions of sub-section (*1*) shall, on conviction, be punishable with fine which may extend to twenty rupees.

Previous sanction and limitation on prosecution.

**10.** No prosecution under this Act shall be instituted without the previous sanction of the Director of Agriculture.

Cognizance of offences.

**11.** No criminal court inferior to that of a Presidency Magistrate or a Magistrate of the Second Class shall try any offence under this Act.

Protection for acts done under this Act.

**12.** No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

Officer acting under the Act to be public servant.

**13.** Every officer acting or purporting to act in pursuance of the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

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Rules.

**14.** (*1*) The Provincial Government may make rules not inconsistent with the provisions of this Act for the purpose of carrying into effect the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, the Provincial Government may make rules for all or any of the following purposes, namely :—

(*a*) to prescribe the sum of money to be paid by way of composition under section 7 ;

(*b*) to prescribe the conditions subject to which cotton seized may be forwarded under section 8.

(*3*) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(*4*) Rules made under this section shall be subject to the condition of previous publication in the *Official Gazette*.

Repeal.

Bom. XXXV of 1935.

**15.** The Bombay Cotton Control Act, 1935, is hereby repealed :

Bom. XXXV of 1935.

Provided that any notification issued under section 3 of the Bombay Cotton Control Act, 1935, shall be deemed to be issued under sub-section (*2*) of section 3 of this Act unless and until superseded by any notification issued under the said sub-section :

Bom. XXXV of 1935.

Provided further that any proceeding in respect of any offence under the Bombay Cotton Control Act, 1935, pending at the date of the coming into force of this Act shall be continued and disposed of as if this Act had not been passed.

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## STATEMENT.

The protected areas south of the Nerbudda river and more particularly the "South Surat protected zone" grow one of the best varieties of Indian cotton, known to the cotton trade as "Navsâri" (1027 A.L.F.). This cotton commands a high price in India as well as abroad, because of its long and fine staple. It is the desire of Government that this cotton should be grown throughout the Surat Protected area in order to ensure the raising of valuable long staple cotton, with a high degree of purity in this area. Goghari cotton is a distinctly inferior type. Owing to its higher yield and ginning percentage compared with 1027 A.L.F.

cotton, it is often mixed with the latter as the resultant mixture, when sold under the name of pure 1027 A.L.F. cotton, gives a better immediate return to the seller. The Bombay Cotton Control Act, 1935, was enacted in order to prohibit the cultivation of Goghari cotton and its mixture with other cotton. It has not, however, produced the results intended, as the existing Act merely enables Government to prohibit the cultivation of Goghari cotton in specified areas. Government has noticed with concern the increasing practice of mixing 1027 A.L.F. cotton with inferior varieties, such as Goghari, selection 1-A, Surti deshi and Broach, in the areas of the Surat district south of the Nerbudda river. In the best interests both of the cotton trade and of the growers of cotton and to safeguard the economic prosperity of the Province, it is necessary to maintain the quality and reputation of the cotton grown in these areas and for that purpose to fix the variety of cotton to be grown in any specified area, to prohibit the cultivation in that area of any other variety which Government may determine from time to time, to prevent the mixing of such prohibited cotton with any other cotton, and to prohibit or restrict the possession, use of, or trade in prohibited cotton. With this object in view the Baroda State has recently passed its Cotton Control Act. This Act, among other things, prohibits the mixing of the standard variety, i.e., 1027 A.L.F. cotton, with inferior varieties. The present Act supplies the need for similar legislation to prevent the adulteration of 1027 A.L.F. cotton with inferior types, in the Province of Bombay.

H'S GOVERNMENT CENTRAL PRESS.